

Questions and Answers about Non-Conforming Structures

The term “Non-Conforming” has been much talked about in relation to the recent changes to the city’s zoning code. The following information is provided to clarify what is meant by this term and how it is applied within the zoning code in relation to the changes enacted on July 17, 2015.

What is meant by non-conforming?

Non-conforming refers to any structure which in some manner does not meet the requirements of the current zoning code. The non-conformity could be as simple as a structure being a few inches too close to a side property line or as complex as multiple set back encroachments and/or being too tall and/or covering too much of the lot, etc.

How does a structure become non-conforming?

Structures become non-conforming when the zoning code is changed such that a structure, when constructed, met the requirements of the code but does not meet one or more of the new or changed requirements. The very act of the Commissioners adopting the first zoning code in 1941 rendered many structures non-conforming, as have several zoning code changes since then.

Must a non-conforming structure be made to conform?

No. A non-conforming structure can continue indefinitely.

Can a non-conforming structure be expanded?

Yes. A non-conforming structure may be expanded as long as the expansion is carried out in conformance with the zoning code requirements in effect at the time of expansion.

Can a non-conforming structure be altered or repaired?

Yes. Repairs, re-siding and internal alterations, including structural, may be made in any non-conforming structure, or part thereof. However, if any nonconforming structure is demolished or more than 50% of the structure is removed, the structure may not be rebuilt, repaired, remodeled, or altered unless the entire structure is made to comply with the current zoning code. Many of the homes that were made non-conforming by the enactment of the original zoning code in 1941 still exist and have been repaired and altered over the years with many having been expanded.

Can a non-conforming structure be rebuilt if damaged or destroyed?

Yes. A nonconforming structure which is destroyed by fire, explosion or act of God may be rebuilt to its original configuration, provided that:

- The reconstruction is begun within six months from the date of destruction and is carried through completion without undue delay. The Board of Adjustment may grant an extension not exceeding an additional

period of six months, within which the reconstruction may be begun in any case where the delay has been the result of causes outside the control of the owner.

- The reconstructed building does not exceed in height the limit in the zoning district of the building destroyed, except when authorized by special exception.

Does the July 17 ordinance make all structures non-conforming?

No. The changes to the zoning code made on July 17, 2015, do not make all structures non-conforming. A structure would have had to meet all of the previous requirements of the zoning code but now not meet one or more of the new provisions to be considered to have been made non-conforming by the ordinance. Many structures were non-conforming prior to the most recent changes by virtue of previous changes to the zoning code or, as cited above, by the very adoption of the original zoning code.